



Matthew J. Lohr
Commissioner

COMMONWEALTH of VIRGINIA

Department of Agriculture and Consumer Services

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Water Docket

U.S. Environmental Protection Agency

Mail code: 28221T

1200 Pennsylvania Avenue, NW

Washington, DC 20460

RE: EPA-R03-OW-2010-0736 – Comments on Draft Chesapeake Bay Total Maximum Daily Load

To Whom It May Concern:

The Virginia Department of Agriculture and Consumer Services (VDACS) appreciates the opportunity to provide comment for consideration in the development of the draft Chesapeake Bay Watershed TMDL.

The draft Chesapeake Bay TMDL that the U.S. Environmental Protection Agency (EPA) has presented for public comment covers an extremely complex and critical initiative that will have long-term implications for Virginia's environment, its agricultural and forest producers, its agribusinesses, its other industries, its state and local governments, and its citizens. Such an initiative deserves careful review, assessment, and explanation by all parties. However, this was not possible due to the time frames set forth to develop the TMDL and the Watershed Implementation Plans. Although the urgency of the restoration of the Chesapeake Bay is shared by all, careful consideration and additional research is needed. If the Chesapeake Bay TMDL will serve as a model for future watershed restorations, it is imperative that this process not be hastily attempted.

Such an initiative also deserves to be based on an a well-calibrated Chesapeake Bay Watershed Model that uses up-to-date agricultural census and land use data, accounts for voluntarily implemented best management practices, and provides accurate and reliable predictions. These model input flaws, as well as other assumptions

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incorporated into the model should be remedied before the completion of the development of the Chesapeake Bay TMDL.

There is a general consensus that it would be in the best interest of Virginia agriculture and the environment to keep our Bay land in productive, profitable family farms. However, the draft TMDL is calling for more government regulation at a time when farm families are experiencing tough economic times. We expect that more of these families may be forced to sell their farms in response to new, costly restrictions placed on their operations.

VDACS strongly urges the EPA to work with the states and the District of Columbia to minimize the use of new regulations. New regulations can have a significant (and negative) impact on farm operations in the Bay watershed. We recommend that EPA further consider the use of existing state water quality programs—with increased resources—to address TMDL objectives. VDACS feels that a greater level of reasonable assurance can be provided by better utilizing its existing state water quality programs. By increasing the currently limited resources dedicated to these programs, through a better coordination of efforts, and by better targeting of those resources, state programs can achieve much greater success in protecting water quality. It is much more cost effective for the Commonwealth to take this approach than to consider further regulation as a means of providing reasonable assurance as it pertains to the agricultural sector.

Specifically, VDACS generally concurs with the Virginia Department of Environmental Quality's (DEQ) comments on Section 6 of the draft TMDL regarding the inclusion of a temporary reserve, interpreting model results (developing a set of uniform criteria for evaluating model performance and attainment assessment of model output, and that the criteria should undergo scientific peer review), and with DEQ's recommendation of replacing the term "mortality composting" with "mortality management."

In summary, VDACS requests that the EPA allow sufficient time for review and development of the Watershed Implementation plans, refine the accuracy issues associated with the Chesapeake Bay Watershed Model, and further evaluate the costs and feasibility of meeting the current TMDL load reductions for the agricultural sector prior to the finalization of the TMDL. The Commonwealth is currently attempting to adequately address gaps in funding, staff resources, legislative authority, and provide reasonable assurance in the Draft Phase I WIP. VDACS believes that the Commonwealth currently has the necessary existing regulations and water quality programs, as well as the desire by the farming community to implement the necessary best management practices. However, VDACS acknowledges that the Commonwealth greatly lacks the necessary funding for those practices, and the technical staffing resources needed to implement them. Finding ways to assure that adequate funding is available to implement the necessary best management practices is becoming increasingly difficult in the current economic climate. Still, VDACS remains committed to working with our federal, state, local, and private partners, as well as the agricultural

community, to develop a cost effective and equitable means of further restoring the Chesapeake Bay, and providing long-term environmental sustainability of agricultural operations in the Commonwealth.

Thank you for your time and attention

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew J. Lohr". The signature is fluid and cursive, with the first name "Matthew" being the most prominent part.

Matthew J. Lohr
Commissioner

cc: The Honorable Todd P. Haymore, Secretary of Agriculture and Forestry
The Honorable Doug Domenech, Secretary of Natural Resources
Paul W. Rogers, Jr., President, Board of Agriculture and Consumer Services